

**TOWN OF DAVIE**  
**TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

**PREPARED BY:** Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

**SUBJECT:** June 4, 2008 minutes

**AFFECTED DISTRICT:** n/a

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** June 4, 2008 (Regular Meeting)

**REPORT IN BRIEF:** Council minutes from the June 4, 2008 Council meeting.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:**

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** June 4, 2008 minutes

**TOWN OF DAVIE  
REGULAR MEETING  
JUNE 4, 2008**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:07 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present at the meeting were Mayor Truex, Councilmembers Caletka, Crowley and Starkey. Also present were Assistant Town Administrator Cohen, Town Attorney Rayson, and Town Clerk Muniz recording the meeting. Vice-Mayor Luis and Town Administrator Shimun were absent.

Later in the meeting, Councilmember Crowley made a motion, seconded by Councilmember Starkey, to excuse Vice-Mayor Luis' absence. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

State Representative Hudson presented an update on the State Legislative session. Items passed in the session included health care initiative to bring health insurance to many uninsured residents and a comprehensive business and professional regulation bill. Representative Hudson advised that he had also worked on the Tobacco Free Florida Program.

Representative Hudson said that there had been discussion regarding privatization of Alligator Alley. He indicated that Collier and Broward County residents were both opposed to this and asked that Council make him aware if they took a formal position regarding the issue.

Councilmember Starkey thanked Representative Hudson for supporting the Autism bill. She asked him to do all he could to preserve the Sadowski funds. Councilmember Starkey also wanted to continue to work on amendments to State Statute 723 regarding fair exit/relocation compensation for mobile home owners. Representative Hudson felt the Autism bill had not gone far enough and he hoped they could enhance this next year. He agreed with Councilmember Starkey regarding the Sadowski funds. Representative Hudson stated that he had researched the mobile home issue and had established a "Creative Solutions Council" with representatives of the Florida Association of Counties, Florida League of Cities, mobile park owners associations and mobile park residents associations to work on this problem and develop solutions. By next spring's session, Representative Hudson hoped to have a bill ready to file.

**3. OPEN PUBLIC MEETING**

Tom Neely expressed concern regarding the possibility that the Special Projects Department would be eliminated. He commended Special Projects Director Bonnie Stafiej and her staff for their work.

John Gentile was concerned about overgrowth in Berman Park and reported the section of property adjacent to his yard had not been cut in five years. The Public Works Department had informed him maintenance of the vegetation near the fence on the south

side was his responsibility. Mr. Gentile asked the Town to be a good neighbor and cut the vegetation. Mayor Truex said that apparently the Town had changed its policy regarding maintenance. He asked staff to explain this change to Council. Assistant Town Administrator Ken Cohen agreed to report on this change.

Linda Lee Granger wanted to address Council regarding item 6.6, which had been removed from the agenda. She asked Council not to vote on this, noting that once an ordinance for the community was in place, they should only be strengthened, not diminished. Ms. Granger said that she had been horrified at the proposition of reducing the buffer zone for sexually oriented businesses. She questioned who had placed this item on the agenda and felt it had been wrong to do so.

Lorraine Hofheinz reported that the Town's web page email was still not functional. She also opposed item 6.6 and wondered how this item had been put on the agenda. Ms. Hofheinz requested notification if this were put on a future agenda so she could email other parents.

Mayor Truex acknowledged that the CRS web system was not working. He advised that residents could be put on an approved mail list so their email communication with Council would not bounce.

Councilmember Crowley asked Mr. Cohen how item 6.6 had been placed on the agenda and why it was pulled. Mr. Cohen explained that Council, Mr. Shimun and the Town's special legal counsel had held an executive session on this issue months ago and the special legal counsel had indicated that there was a constitutional issue with the existing ordinance, where some locations throughout the Town had to be provided for this particular type of event, and the current ordinance did not provide any locations. Therefore, it would probably be found to be unconstitutional, opening the Town to placing these events anywhere. Staff had been instructed to reduce the distance separation to allow seven to nine locations in Town.

Mr. Cohen continued that item 6.6 had been placed on the agenda because the Town's special legal counsel had to answer interrogatories from Club Eden's attorney, whom the Town was trying to evict. The Town's special legal counsel had wanted to be able to respond in the interrogatories that the constitutional issues in the ordinance cited by Club Eden had been resolved and there were available locations, but had later informed staff that another alternative might be able; therefore, the item had been pulled to allow staff to identify a better solution.

Mayor Truex stated that this solution was not what Council had discussed and he was sure it would not pass if voted upon. Councilmember Starkey opposed it as well, and felt that this should have been addressed in an executive session prior to appearing on their agenda. She stated that she was troubled by "the method and the process by which this came forward," and pointed out it had not been at Council's request. Councilmember Starkey asked who advanced the item and under whose authority it was placed on the agenda.

John Pisula, Davie Economic Development Council Chair, stated that the Economic Development Council did not support item 6.6. He announced that the annual meeting and business expo would be held at Nova University Center on June 26th and was by invitation only.

Ms. Liveler requested additional security in Palma Nova Mobile Home Park, noting recent burglaries there. Mayor Truex suggested that Ms. Liveler to confer with a Police Department representative regarding the Crime Watch program.

Abigail Cruz asked if Palma Nova Mobile Home Park was going to close. Councilmember Caletka said that he often heard the rumor that the park was closing, and whenever he spoke with the owner, he was informed that there were no plans to sell or redevelop the property. Mayor Truex said that the owner had made the same statements to him. He noted that the Town had changed development plans for the entire area and the long-term plan did not include a mobile home park. Ms. Cruz pointed out that she had seen many mobile homes moved out and none moved in.

Jillian Swierczek stated that the owners of the property behind hers had “shown, from day one, complete disregard for all restrictions.” The owner had tried to fill in the retention pond, illegally removed trees and wildlife from the property and had recently brought over 200 loads of fill to the property. Ms. Swierczek was concerned about the flooding this would cause in the neighboring properties. Councilmember Starkey stated that she had visited Ms. Swierczek’s property and had seen the adjacent owner trucking in fill. She asked that the Engineering Department visit the site again. Mr. Cohen explained that the owner was required to construct retaining walls on the property to retain the site’s water.

Judy Paul explained that the Town Administrator and his staff decided what items to put on the agenda without Council’s approval, which needed to be stopped. She believed Council should have input regarding the agenda, particularly with such a potentially contentious item. Ms. Paul said that, “staff needs to get direction and...the public needs to have a high level of expectation that staff will be more respectful of the quality of life issues for the people who pay their salaries.”

Warren Howie reported that the Public Works Department had informed him he must maintain a 135-foot by 40-foot area behind his property that was part of the park trail system. He disagreed with being required to maintain a portion of the trails program, which benefited everyone. Councilmember Crowley stated that this issue must be addressed and policy clarified. He agreed it was too much to ask of the residents and believed the Code was intended to require residents to maintain the swale between the sidewalks and streets.

Maria Florian discussed the Town’s lack of maintenance behind her home in Davie Oaks. She agreed that residents should not be responsible to maintain the easement.

Jim Taylor was concerned about liability issues when residents maintained Town property.

John Gillan said that Public Works Director Manny Diez had informed him if he did not maintain the Town property adjacent to his, the Town would lien his property. Mr. Dillon believed this policy was not well thought out and would burden property owners with too much potential liability.

A resident of Palma Nova requested that a law be enacted to reimburse mobile home owners when the land was redeveloped. Another resident agreed that mobile home owners should be reimbursed 80% of the cost of their trailers if they were displaced. Mayor Truex explained that the Town’s Mobile Home Task Force had determined it was

not legally possible to force a park owner or developer to reimburse owners for their mobile homes.

Sandy DePompa objected to being required to maintain Town property adjacent to hers. She had collected signatures on a petition from her neighbors and staff had responded by informing her that the maintenance was her responsibility.

Chris Galbraith also objected to being required to maintain public land and pointed out that the residents were afforded no means to appeal this mandate. Ms. Galbraith noted that for years, she had been denied the right to plant a tree on this land to screen the lights from the school.

Danny Eahert agreed with the other residents who had previously spoken.

Lloyd Phillips said that his neighbor had over filled his property so it was three feet higher than his property and the space in between their two fences was occupied by vermin. Mayor Truex asked if any conditions at Mr. Phillips' property had changed in the last two years and asked Mr. Cohen to look into this issue.

Debra Colabella explained that Town staff and engineering consultants had recommended that SW 36 Street be four lanes with a median. She noted that when Nova began purchasing the houses on SW 36 Street, they informed residents that the road would be two lanes, there would be a passive park and the oak trees would not be touched, but she noted that most of the oak trees had been removed over the years. Ms. Colabella wondered why SW 36 Street should be four lanes when it was "right in the middle of nowhere." Mayor Truex stated that this item would be before Council again on June 18th and invited residents to attend that meeting to provide input. Councilmember Crowley said that he was concerned about the proposed four-lane road in this neighborhood.

Karen Stenzel-Nowicki distributed documents that Councilmember Starkey had requested regarding the Club Eden Federal Court case. She stated that in 2006, she had sat on the Local Planning Agency and had provided almost two inches of case law, zoning regulations and legal precedents regarding this issue. When this issue came before Council in May 2006, she had provided photos of adjacent residential properties and access to the adjoining Burger King parking lot. Ms. Stenzel-Nowicki asked Council to review all the information, and to "consider who you are sitting up there on behalf of - the community." Mayor Truex remarked that the Town's attorney on this matter, Mr. Burke, had been rated pre-eminent in peer review. He assured Ms. Stenzel-Nowicki that Council was taking this matter quite seriously.

Joseph Cimino agreed with Ms. Colabella that SW 36 Street should not be widened to four lanes. He believed this would just "shift the burden" of traffic instead of distributing it evenly.

A Palma Nova resident suggested that the park owner mail a letter to residents to address their concerns about the rumors of a sale of the park. Mr. Rayson clarified that State law required six months' advance notice for eviction. The Town's newly adopted Mobile Home Park Relocation Ordinance also required an exit plan, full disclosure and mobile home relocation assistance. Councilmember Starkey suggested park residents negotiate longer leases with the owner.

Councilmember Crowley wanted staff to address the right-of-way maintenance issue. Mr. Cohen agreed to report to Council on this. Mayor Truex requested that this be on Council's next agenda. Councilmember Starkey requested a list of areas and

addresses that were notified they must perform maintenance and the rationale used to identify these properties.

Later in the meeting, Councilmember Starkey made a motion, seconded by Mayor Truex, to add item 9.2 to the agenda. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

#### **4. APPROVAL OF CONSENT AGENDA**

##### *Minutes*

4.1 May 7, 2008 (Workshop Meeting)

##### *Business Tax Receipt*

4.2 M.A. Cabrera & Company PA, 11064 SW 37 Manor

##### *Resolutions*

- 4.3 **BID EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA  
R-2008-109 APPROVING AN EXTENSION OF THE BID BETWEEN THE TOWN AND GOLD NUGGET D/B/A ARGO UNIFORM CO. FOR THE SUPPLY OF POLICE AND FIRE RESCUE DEPARTMENT UNIFORMS. (\$45,000/year - police; \$45,000/year - fire)
- 4.4 **CONTRACT EXTENSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AN EXTENSION TO THE CONTRACT BETWEEN THE TOWN AND ZAMBELLI FIREWORKS, MANUFACTURING CO., INC. d/b/a ZAMBELLI FIREWORKS INTERNATIONALE FOR AN INDEPENDENCE DAY FIREWORKS DISPLAY.  
R-2008-110
- 4.5 **BOND** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, INDICATING THE OFFICIAL INTENT OF THE TOWN COUNCIL TO ISSUE TAX-EXEMPT BONDS TO FINANCE THE COST OF IMPROVEMENTS AND ADDITIONS TO THE TOWN'S WATER AND SEWER SYSTEM AND TO USE A PORTION OF THE PROCEEDS OF SUCH BONDS TO REIMBURSE EXPENDITURES PAID OR INCURRED PRIOR TO THE DATE OF ISSUANCE THEREOF.  
R-2008-111
- 4.6 **RATIFICATION OF PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA RATIFYING THE ACTION OF THE DAVIE COMMUNITY REDEVELOPMENT AGENCY TO PURCHASE STREET LIGHT ASSEMBLIES AND GLOBES FROM A SINGLE SOURCE SUPPLIER, VISCO COMPANY THROUGH LIGHTING REPRESENTATIVES, INC., AUTHORIZING THE MAYOR TO EXECUTE THE RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.  
R-2008-112
- 4.7 **RATIFICATION OF PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE,

R-2008-113 FLORIDA RATIFYING THE CONTRACT FOR SALE AND PURCHASE OF REAL ESTATE BY AND BETWEEN JOANNE HIOTT RULE (“SELLER”) AND THE DAVIE COMMUNITY REDEVELOPMENT AGENCY (“BUYER”) FOR PROPERTY AT 6351 SW 41 PLACE ALSO KNOWN AS LOT 2 OF WHITE PARK SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 48, PAGE 42 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.

4.8  
R-2008-114 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ENTERING INTO AN INTERLOCAL AGREEMENT WITH THE TOWN OF SOUTHWEST RANCHES RELATING TO THE PERMITTING, MAINTENANCE, AND FUTURE CONVEYANCE OF S.W. 54TH PLACE; AND PROVIDING FOR AN EFFECTIVE DATE.

4.9  
R-2008-115 **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SUPPORTING AND AUTHORIZING THE APPLICATION FOR A GRANT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION, DISTRICT 4 DISCRETIONARY GRANT PROGRAM, AND IF AWARDED THE GRANT, AUTHORIZING ITS ACCEPTANCE AND EXECUTION.

*Temporary Use Permit*

4.10 TU 03-04-08, Summit-Questa, 5451 SW 64 Avenue, generally located on the 5400 block of Davie Road

*Quasi-Judicial Consent Agenda*

4.11 SPM 2-3-08, Tree Tops Park, generally located on Nob Hill Road between between Griffin Road and Southwest 39th Street *Site Plan Committee approved subject to the planning report*

Councilmember Crowley pulled item 4.5 from the Consent Agenda. Mayor Truex pulled item 4.10.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve the Consent Agenda, less items 4.5 and 4.10. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

**5. DISCUSSION OF CONSENT AGENDA ITEMS**

4.5 Councilmember Crowley requested clarification regarding which residents would pay back a portion of the bond. Mr. Cohen explained that this would only affect those residents who were served by the utility. He advised that these funds were for initial costs and the reserve would be reimbursed once they had the bond funds.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

4.10 Mayor Truex asked how long the applicant would need the trailer on the property. Acting Development Services Director Marcie Nolan said that Council usually allowed 36 months to complete a construction project.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve, with a 36-month time limit. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

## 6. PUBLIC HEARING

### *Ordinances - Second and Final Reading*

- 6.1 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, PROHIBITING GRAFFITI; AND RELATING TO NUISANCES, BY CREATING THE GRAFFITI PREVENTION AND REMOVAL ORDINANCE, PROVIDING DEFINITIONS; DECLARING A NUISANCE; UNLAWFUL ACTIVITIES AND DUTIES OF REMOVAL; DESIGNATING THE TOWN OF DAVIE POLICE DEPARTMENT AND CODE ENFORCEMENT WITH INVESTIGATORY AND ENFORCING AUTHORITY; SETTING FORTH A PROCEDURE FOR IMPLEMENTATION AND A BUDGET FOR FUNDING; PROVIDING FOR CIVIL AND CRIMINAL REMEDIES; PROVIDING FOR CONFLICT, SEVERABILITY, INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from May 21, 2008) {Approved on First Reading April 16, 2008. All voted in favor.}

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey remarked that the agenda item did not include all the changes she had recommended and stated that there was an entire subsection missing. Mayor Truex remembered that Councilmember Starkey's changes were supposed to be included in their backup as well. Councilmember Starkey pointed out that attorney Tom Moss's amendments should have been included.

Mr. Rayson clarified that Mr. Moss had accepted most of the changes suggested by Councilmember Starkey and had incorporated them into the ordinance. Councilmember Starkey suggested tabling the item until Council received the amended version of the ordinance.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table 6.1 to the next meeting [June 18, 2008]. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

- 6.2 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-2-05, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO R-5, LOW MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-2-05, Brierwood Estates, 1385 SW 131 Terrace) (Approved on First Reading May 21, 2008)  
2008-19 (The vote was as follows: Mayor Truex- yes; Vice Mayor Luis- yes;

**Councilmember Starkey - yes; Councilmember Caletka - no;  
Councilmember Crowley - absent)**

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve.

Councilmember Crowley withdrew his motion.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve with the Site Plan Committee's recommendations, the staff's recommendations, to include the landscaping down the entire portion of the length of the entire deed restricted area, the pedestrian crossing striping at 14 Street and 130th.

Mayor Truex clarified that Councilmember Starkey's motion included all recommendations made at the previous meeting. Ms. Nolan noted that the recommendations had been included in the site plan approval and asked that the motion be made specific to that document.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 3-1)

*Ordinance - First Reading (Second and Final Reading to be held June 18, 2008)*

6.3 **PENSION AMENDMENT - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO ADOPT THE PENSION PROVISIONS OF THE 2005 - 2008 FIREFIGHTER COLLECTIVE BARGAINING AGREEMENT; AMENDING SECTION TWO OF THE PLAN TO REVISE THE DEFINITION OF EARNABLE COMPENSATION TO INCLUDE TOTAL REMUNERATION EXCLUSIVE OF OVERTIME; AMENDING SECTION FOUR OF THE PLAN TO PROVIDE FOR MEMBER CONTRIBUTIONS OF 8.4% OF EARNABLE COMPENSATION; AMENDING SECTION SIX OF THE PLAN TO CLARIFY THE NORMAL FORM OF RETIREMENT BENEFIT FOR A MARRIED PARTICIPANT AS THE 60 PERCENT JOINT AND SURVIVOR ANNUITY OR UNREDUCED TEN YEAR CERTAIN AND LIFE ANNUITY; AMENDING SECTION SIX OF THE PLAN TO PROVIDE FOR A HIGHER MULTIPLIER FOR A MEMBER'S SIXTEENTH THROUGH TWENTIETH YEARS OF SERVICE; AMENDING SECTION FOURTEEN OF THE PLAN TO PROVIDE FOR A FIVE YEAR DROP; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on June 18, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Mr. Cohen explained that this item codified the contract recently approved with the firefighters.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor

Luis - absent; Councilmember Caletka - no; Councilmember Crowley - yes; Councilmember Starkey - yes. (automatically tabled due to a tie vote)

- 6.4      **PENSION AMENDMENT - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO PERMIT THE FIRE CHIEF TO TRANSFER THE PRESENT VALUE OF THE ACCRUED FIREFIGHTER BENEFIT TO THE TOWN'S RETIREMENT PLAN AND TRUST FUND FOR MANAGEMENT AND GENERAL EMPLOYEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on June 18, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Councilmember Starkey requested information on the fiscal impact of this change prior to their next meeting. Mr. Cohen advised that no report on the fiscal impact had been included because staff did not believe there would be any fiscal impact.

Councilmember Starkey wanted to know if pensions the Fire Chief brought with him could be included. Adam Levinson, the pension attorney, clarified the intent of the ordinance.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

- 6.5      **RETIREMENT PLAN AMENDMENT - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE RETIREMENT PLAN AND TRUST FOR MANAGEMENT AND GENERAL EMPLOYEES; AMENDING THE DEFINITION OF MANAGEMENT EMPLOYEE TO PERMIT THE FIRE CHIEF OR POLICE CHIEF TO TRANSFER SERVICE FROM THE POLICE OR FIRE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on June 18, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Mr. Levinson confirmed that Council would receive an impact statement for items 6.4 and 6.5.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

- 6.6      **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, ARTICLE III. USE REGULATIONS,**

DIVISION 1. PERMITTED USES, SECTION 12-32 TABLE OF PERMITTED USES AND DIVISION 3. DETAILED USE REGULATIONS, SECTION 12-34. STANDARDS ENUMERATED; RELATING TO SEXUALLY ORIENTED BUSINESSES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was withdrawn by staff.

6.7 **COMMITTEE CREATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA PROVIDING FOR THE CREATION OF AN AFFORDABLE HOUSING ADVISORY COMMITTEE (AHAC) AS REQUIRED UNDER FLORIDA ADMINISTRATIVE CODE CHAPTER 67-37 FOR ALL MUNICIPALITIES RECEIVING STATE HOUSING INITIATIVE PARTNERSHIP (SHIP) PROGRAM FUNDS FOR AFFORDABLE AND WORKFORCE HOUSING.

Mr. Rayson read the ordinance by title. Mayor Truex announced that a public hearing on the ordinance would be held on June 18, 2008.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing portion of the meeting.

Housing & Community Development Director Shirley Taylor-Prakelt explained that Council's next agenda would include a resolution describing the 11 types of members of this committee, with a list of recommended appointees. She explained that the State had declared if municipalities did not create this committee, they would forfeit SHIP funding, and the committee should exist as long as the municipality participated in the SHIP Program.

Councilmember Starkey recommended adding: "*the Town Council shall*" before "appoint, by resolution, all required members by June 30" in section 2 at the top of page 182. She also wanted to include that the appointments should be reaffirmed by resolution annually. Ms. Taylor-Prakelt agreed to make these changes.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

*Quasi-Judicial Items*

6.8 **VARIANCE** - V 3-1-08, Focke, 4250 SW 92 Avenue (A-1) (to reduce the required 30 foot side setback to a 25.5 foot setback along the northern property line) *Planning and Zoning Board Recommended approval*

Mr. Rayson read the variance by title, correcting that the request was for a 25.2-foot setback [not a 25.5-foot setback]. Mr. Rayson swore in the witnesses. Planning & Zoning Manager David Quigley summarized the request.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Mr. Focke, the applicant, agreed that 25.2 feet was the correct figure.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve the 25.2-foot setback. In a roll call vote, the vote was as follows: Mayor

Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 4-0)

- 6.9 **SPECIAL PERMIT** - SE 10-2-07, Land Design South/Home Dynamics Sterling Ranch, LLC., 4621 SW 58 Avenue (R-1) (is requesting a trailer to be used as a temporary real estates sales office) *Planning and Zoning Board recommended approval for 36 months subject to staff's recommendations to provide a bond or other acceptable surety to ensure the removal of the trailer and asphalt paving at the end of the duration*

Planning & Zoning Deputy Manager David Abramson summarized the report. Mr. Abramson explained that Ms. Turin on the Planning and Zoning Board had favored allowing 18 months instead of 36 months.

Mr. Rayson opened the public hearing portion of the meeting. As no one spoke, Mr. Rayson closed the public hearing portion of the meeting.

Council gave their disclosures on this item.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve the request for 18 months and allow the applicant to request an additional 18 months.

Todd Seeg, Home Dynamics, explained they had requested 36 months due to the market situation.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Luis - absent; Councilmember Caletka - yes; Councilmember Crowley - no; Councilmember Starkey - yes. (Motion carried 3-1)

*Items to be tabled/withdrawn*

- 6.10 **WITHDRAWN BY PETITIONER**

VACATION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION APPLICATION VA 9-1-07 "DAVIE PROFESSIONAL PLAZA" VACATING A PORTION OF RIGHT-OF-WAY (O.R.B. 7652, PG 91 AND 92, B.C.R.) LYING IN THE EAST 1/2 OF THE NORTH 1/2 OF TRACT 36, SECTION 33-50-41, EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION, AS RECORDED IN PLAT BOOK 3, PAGE 6 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 9-1-07, Davie Professional Plaza, 5355 SW 76 Avenue)

This item was withdrawn by the petitioner.

*Resolution*

- 6.11 **STAFF REQUESTING A TABLING TO JUNE 18, 2008**

RESOLUTION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE 5-YEAR CAPITAL PROJECTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2009-2013.

Earlier in the meeting, Councilmember Starkey made a motion, seconded by Councilmember Crowley, to table item 6.11 to June 18. In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

**7. APPOINTMENTS**

- 7.1 Mayor Truex

- 7.1.1 Senior Citizen Advisory Committee (two exclusive appointments - terms expire April 2010) (members shall be a minimum 60 years of age)

No appointments were made.

- 7.1.2 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2 Councilmember Caletka

- 7.2.1 Parks and Recreation Advisory Board (two exclusive appointments - terms expire April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Councilmember Caletka appointed Bill Liebowitz.

7.3 Councilmember Crowley

- 7.3.1 Parks and Recreation Advisory Board (two exclusive appointments - terms expire April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Councilmember Crowley reappointed Mark Solomon.

7.4 Councilmember Starkey

- 7.4.1 Agricultural Advisory Board (one exclusive appointment - term expires April 2010) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

- 7.4.2 Youth Education and Safety Advisory Board (two exclusive appointments - terms expire April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

- 7.5 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager - both members

shall be a permanent resident or have their principal place of business within the Town's jurisdiction)

No appointments were made.

7.6 Broward Education, Research and Training Authority (non-exclusive appointment)

Councilmember Starkey made a motion, seconded by Mayor Truex, to appoint Mr. Cohen. In a voice vote, with Vice-Mayor Luis being absent and Councilmember Crowley dissenting, all voted in favor. (Motion carried 3-1)

**8. OLD BUSINESS**

8.1 Charter Review Board Recommendations

Council agreed to wait until Vice-Mayor Luis could be present to discuss this.

**9. NEW BUSINESS**

9.1 Legislative Update - Ericks Consulting

Earlier in the meeting, David Sigerson explained that this legislative session had been devoted to the budget. He had distributed his report to Council earlier and drew their attention to the section describing bills that had not passed, many of which would have been harmful to local government. Mr. Sigerson referred to Senate Bill 1588, which included a “recapture” provision for Amendment 1 that had passed in January. This provision would have resulted in municipalities’ maintaining their tax millage rate, resulting in less revenue.

Dave Ericks, Ericks Consulting, remarked they had “killed a lot of bad stuff” in this legislative session.

9.2 Multi-Purpose Trail (east of Peaceful Ridge Road and North/South from 26th Street to 36th Street)

Councilmember Starkey stated that the Open Space Advisory Committee had recommended that the trail system be extended. Ownership of the easement was unclear and Councilmember Starkey suggested that a survey be conducted to determine available space that could be included in the Town’s trail system.

Mr. Cohen recommended that Council allocate \$10,000 for the survey and once the survey was complete, staff would request additional District 3 funds. Mayor Truex advised staff to put this on Council’s next meeting agenda as a resolution so the item would be noticed. Councilmember Starkey said that in the past, district money had been allocated by motion.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve \$10,000 for a survey from 26th Street to 36th Street, along the C-20 canal and the right-of-way.

Councilmember Crowley pointed out that this trail had been proposed for 15 to 20 years and he believed there was some impediment to locating a trail there.

In a voice vote, with Vice-Mayor Luis being absent, all voted in favor. (Motion carried 4-0)

**10. SCHEDULE OF NEXT MEETING**

Town Clerk Muniz confirmed that the first budget workshop was scheduled for June 19h. Council agreed to hold a second budget workshop on June 20th.

## **11. MAYOR/COUNCILMEMBER'S COMMENTS**

### **MAYOR TRUEX**

**ANNUAL REVIEW.** Mayor Truex wished to discuss an interim review for Mr. Shimun at Council's next meeting. Council agreed.

**SILVER RIDGE RECYCLING PROPOSAL.** Mayor Truex asked staff for a presentation on the grant application for matching funds to contribute to the Silver Ridge recycling program.

**AGRICULTURAL ADVISORY BOARD.** Mayor Truex requested a presentation from the Agricultural Advisory Board at Council's next meeting regarding the letter the Board had sent.

**DEFIBRILLATOR COSTS.** Mayor Truex asked what the cost of the defibrillator program would be. Mr. Cohen responded that the program would be explained at Council's June 18th meeting.

**ROBBINS LODGE TRAIL BREAK.** Mayor Truex was concerned about the trail break near Robbins Lodge that forced people to cross the street twice. Councilmember Starkey explained that she biked this trail often and this was not a dangerous issue. Mayor Truex stated that he would visit the area again.

**INTERMITTENT BIKE TRAIL.** Mayor Truex remarked that the Flamingo Road bike trail from I-595 to Orange Road was incomplete and asked if it would be completed as development continued. Mr. Cohen explained that the Greenways plan was scheduled for the west side of Flamingo.

**26TH STREET ROUNDABOUT.** Mayor Truex asked the estimated completion date for the 26th Street roundabout. Assistant Public Works Manager Daniel Oyler advised Council that the construction schedule was posted on the Town's website and the roundabout completion date was several months away.

**UPDATE ON VICIOUS DOG ATTACKS.** Mayor Truex requested an update on the dog attacks.

**PRIVATIZATION OF ALLIGATOR ALLEY.** Mayor Truex asked for a resolution to be placed on a Council agenda expressing their opposition to this idea.

**RETIREMENT.** Mayor Truex thanked Information Systems Director Frank Apicella for his years of service to the Town and wished him well in his retirement.

### **COUNCILMEMBER CALETKA**

**COSTS TO REPAVE PARK CITY EAST ROADS.** Councilmember Caletka asked for an estimate to repave Park City East roads so Council could determine when to add it to the improvement project plan.

**RESIGNATION.** Councilmember Caletka presented a copy of his letter of resignation, which was effective November 17, 2008.

### **COUNCILMEMBER CROWLEY**

**COUNCILMEMBER CALETKA.** Councilmember Crowley wished Councilmember Caletka good luck in his campaign.

**COUNCILMEMBER STARKEY**

**OWL'S LOOKOUT PARK.** Councilmember Starkey requested that Owl's Lookout Park be put on an upcoming Council agenda. Mr. Cohen asked her to consult with him regarding this issue.

**CONGRATULATIONS.** Councilmember Starkey congratulated Mayor Truex on his daughter's high school graduation. Councilmember Starkey congratulated her daughter and her classmates on their high school graduation.

Mayor Truex asked for a presentation explaining remaining available funds from the open space bond.

**12. TOWN ADMINISTRATOR'S COMMENTS**

No comments were provided.

**13. TOWN ATTORNEY'S COMMENTS**

**SPECIAL EXECUTIVE SESSION FOR THE PLANNING AND ZONING BOARD.** Mr. Rayson advised that there had been a request by the Planning and Zoning Board to hold a special executive session; however, there was no provision under State law for an special executive session with the Board.

Mayor Truex requested an executive session regarding the Club Eden litigation. Council agreed to schedule a session for July 2nd at 6:00 p.m.

**WAL-MART.** Regarding the Wal-Mart case, Mr. Rayson reported the Town's special counsel was concerned with the federal judge, who use to be a land use attorney and indicated that mediation was set for June 24th. Councilmember Starkey disagreed with isolating the Town to negotiate a settlement when other parties were involved. She believed that Tucker Gibbs and Andy Maroudis should be included.

**14. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 10:25 p.m.

Approved\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk